

## **REGULAR MEETING**

### **December 12, 1994**

The Regular Meeting of the Annapolis City Council was held on December 12, 1994 in the Council Chamber. Mayor Hopkins called the meeting to order at 7:30 p.m. Alderman Tullier offered the invocation followed by the Pledge of Allegiance.

Present: Mayor Hopkins, Aldermen Hammond, Johnson, Gilmer, Tullier, Snowden, DeGraff, Turner, Moyer

Alderman DeGraff left at 7:45 p.m.

Staff Present: City Attorney Goetzke

Alderman Turner moved to approve the Minutes of November 4, 1994, November 14, 1994, November 14, 1994 Closed, and November 28, 1994 Seconded. CARRIED on voice vote.

Pursuant to the requirement of Maryland Annotated Code, State Government Article Section 10-508, this statement is included in these minutes:

A closed session of the City Council was held at 7:00 p.m., Monday, December 12, 1994 in the City Council Chambers.

Members Present: Mayor Hopkins, Aldermen Hammond, Johnson, Gilmer, Tullier, Snowden, Turner, DeGraff, Moyer, City Administrator Mallinoff, Acting Police Chief Johnson, City Attorney Goetzke, City Clerk Bembe

The authority under which the session was closed was Maryland Annotated Code, State Government Article, Sections 10-508 (a)(1). The purpose of the meeting was the confirmation of the appointment of the Police Chief. The session was closed by unanimous consent. The following action was taken:

Alderman Turner moved to confirm the appointment of Joseph S. Johnson as Chief of Police pursuant to the terms of an Agreement entitled "Police Chief Employment Agreement". Seconded. A ROLL CALL vote was taken:

YEAS: Mayor Hopkins, Aldermen Hammond, Johnson, Gilmer, Tullier, Snowden, Turner, DeGraff, Moyer

CARRIED: 9-0

## **SPECIAL PRESENTATION**

Captain Barbara Hopkins, Special Operations Division, Annapolis Police Department and Corporal Timothy Seipp, Traffic Safety Unit, Annapolis Police Department spoke regarding the Community Speed Watch Program.

## **PETITIONS, REPORTS AND COMMUNICATIONS**

1. Van Nield  
President Fairfax Community Association  
1962 Fairfax Road

Spoke regarding the application of Fairfax Road Joint Venture to build three houses on the Bausum property north of the west end of Fairfax Road, subdividing the lot of 1990 Fairfax Road as an access road.

2. Dan Masterson  
President Community Associations of Annapolis

Spoke regarding the application of Fairfax Road Joint Venture to build three houses on the Bausum property north of the west end of Fairfax Road, subdividing the lot of 1990 Fairfax Road as an access road.

**LEGISLATIVE ACTION**

1.     **O-8-94**       Sponsored by Aldermen Snowden and DeGraff

For the purpose of establishing the order of procedures for the presentation of testimony and evidence at public hearings before the City Council; setting a time limit; and all matters relating to public hearings.

There being no voiced objection O-8-94 was postponed.

2.     **O-10-94**      Sponsored by Alderman Tullier

For the purpose of clarifying when and under what circumstances appeals taken from decisions of the Planning and Zoning Director to the Board of Appeals and appeals taken from the decisions of the Board of Appeals to the Circuit Court for Anne Arundel County are stayed; and all matters relating to said appeals.

There being no voiced objection O-10-94 was postponed.

3.     **O-18-94**      Sponsored by Alderman Johnson

For the purpose of amending the configuration of the Annapolis harbor line outboard of 369 Dewey Drive on Weems Creek; and all matters relating to said harbor line.

There being no voiced objection O-18-94 was withdrawn.

4.     **O-30-94**      Sponsored by Mayor Hopkins

For the purpose of clarifying the circumstances under which a use permit may be issued; and all matters relating to said use permits.

There being no voiced objection O-30-94 was postponed.

5.     **O-40-94**      Sponsored by Mayor Hopkins

For the purpose of establishing a zoning classification of I1, Light Industrial for the Hudson Street property and existing Capital Gazette Newspaper facility and BCE for the 1.7 acres adjoining existing BCE zoned property, for the property generally located between Gibraltar Avenue and Hudson Street and partially addressed at 2000 Capital Drive, contiguous to the existing boundary of the City of Annapolis, known as West Capital and West Hudson Property Annexation; and all matters relating to said zoning map amendment.

Alderman Snowden moved to adopt O-40-94 on second reading. Seconded. CARRIED on voice vote.

Alderman Tullier moved to adopt O-40-94 on third reading. Seconded. CARRIED on voice vote.

6.     **O-67-94**      Sponsored by Mayor Hopkins

For the purpose of changing the title of Deputy Director of Finance to

Assistant Director for Accounting; establishing certain duties; and all matters relating to said Deputy Director of Finance.

Alderman Snowden moved to adopt O-67-94 on second reading. Seconded. CARRIED on voice vote.

Alderman Tullier moved to adopt O-67-94 on third reading. Seconded. CARRIED on voice vote.

7.     **O-70-94**     Sponsored by Alderman Snowden

For the purpose of establishing policy regarding the supervision of relatives; and all matters relating to said supervision of relatives.

There being no voiced objection O-70-94 was postponed.

8.     **O-71-94**     Sponsored by Alderman Turner

For the purpose of revising the election laws of the City of Annapolis; and all matters relating to said election laws.

There being no voiced objection O-71-94 was postponed.

9.     **O-72-94**     Sponsored by Mayor Hopkins

For the purpose of establishing that parties aggrieved by a decision of the Civil Service Board made pursuant to Chapter 3.16 of the City Code may appeal to the Circuit Court for Anne Arundel County; and all matters relating to said appeal.

There being no voiced objection O-72-94 was postponed.

10.    **O-74-94**     Sponsored by Mayor Hopkins

For the purpose of deleting the supermajority requirement in the event of a protest of a conditional use application; and all matters relating to said requirement.

Alderman moved to adopt O-74-94 on second reading. Seconded. A ROLL CALL vote was taken:

YEAS:       Mayor Hopkins, Aldermen Gilmer, Tullier, Snowden, DeGraff, Moyer

NAYS:       Aldermen Hammond, Johnson, Turner

CARRIED:   6-3

Alderman moved to adopt O-74-94 on third reading. Seconded. A ROLL CALL vote was taken:

YEAS:       Mayor Hopkins, Aldermen Gilmer, Tullier, Snowden, DeGraff, Moyer

NAYS:       Aldermen Hammond, Johnson, Turner

CARRIED:   6-3

11.    **O-81-94**     Sponsored by Mayor Hopkins

For the purpose of revising the fees for ambulance service; and all

matters relating to said fees.

There being no voiced objection O-81-94 was postponed.

12.     **O-88-94**       Sponsored by Mayor Hopkins

For the purpose of authorizing certain civil service employees to receive certain personal leave days during 1995; and all matters relating to said personal leave days.

Alderman Turner moved to adopt O-88-94 on second reading. Seconded. CARRIED on voice vote.

Alderman Turner moved to adopt O-88-94 on third reading. Seconded. CARRIED on voice vote.

13.     **O-99-94**       Sponsored by Alderman Hammond

For the purpose of amending provisions regarding collection of residential refuse in multifamily and mixed use buildings; and all matters relating to said provisions.

Alderman Snowden moved to adopt O-99-94 on first reading. Seconded. CARRIED on voice vote.

Referred to the Rules Committee.

14.     **O-100-94**      Sponsored by Mayor Hopkins

For the purpose of authorizing the City Council to lease certain municipal property known as McNasby's, located at 723 Second Street in the City of Annapolis, to Eastport Seafood Company, a New York corporation, for a certain period of time, subject to certain terms, provisions, and conditions, for the purpose of establishing a seafood processing plant and related production functions and a seafood retail and wholesale facility and uses incident to the same; and all matters relating to said lease.

Alderman Snowden moved to adopt O-100-94 on first reading. Seconded.

Alderman Snowden moved to suspend the rules to permit O-100-94 to be amended on first reading. Seconded. A ROLL CALL vote was taken:

Yeas:           Mayor Hopkins, Alderman Hammond, Johnson, Gilmer, Tullier, Snowden,  
                  Turner, Moyer

CARRIED:   8-0

Alderman Turner moved to amend O-100-94 as follows:

**Amendment No. 1:**

Section 2.1 - Term:           Amend to read as follows:

"The term of this lease shall be one year and shall begin five days from the date Landlord gives the Tenant written notice that the premises are available for occupancy ('the commencement date') which commencement date shall in no event be later than January 1, 1995. The term shall expire at Midnight on the date which is one year after the

commencement date (unless this Lease shall sooner terminate as provided below). If, however, the commencement date is not the first day of a calendar month, the term of this shall expire at Midnight on the date which is one year after the last day of the calendar month in which the commencement date occurred. When the commencement date has been established, the Parties shall execute a written memorandum confirming the commencement date and the date that the term expires. The lease shall renew automatically for a like term from year to year, provided however, that the City may, within its sole discretion, refuse to renew the Lease by written notice of such a refusal delivered to Tenant not less than six months before the end of the then existing Lease term. If the commencement date shall be any day before January 1, 1995, Tenant shall pay pro rata rental for that portion of the month of December, 1994, following the commencement date."

Seconded. CARRIED on voice vote.

Alderman Snowden moved to amend O-100-94 as follows:

**Amendment No. 2:**

Section 3.1 - Rent. Amend to read as follows:

"Tenant shall pay annual rent to the Landlord in the amount of \$30,000.00 payable in equal monthly installments of \$2,500.00 each. If the term of the Lease is automatically renewed pursuant to Section 2.1, then for each such automatic renewal the amount of the annual rent for each such renewal term shall increase in an amount based upon the latest published increase in the Consumer Price Index for Urban Consumers (1982-84 = 100) as published by the United States Department of Labor (Bureau of Labor and Statistics-sometimes referred to CPI-U) or any successor index to which conversion may be computed. Tenant agrees to pay such cost-of-living increases effective on the first day of each such renewal period."

Seconded. CARRIED on voice vote.

Alderman Snowden moved to amend O-100-94 as follows:

**Amendment No. 3:**

Add new Article III (A) - Security Deposit:

"Section 3A.1. Tenant shall, concurrently with the execution of this Lease, deposit with Landlord the sum of \$5,000.00 as security for the full and faithful performance by Tenant of all of its obligations under the terms of this Lease.

Section 3A.2. The deposit shall be returned to Tenant within 45 days after the expiration of this Lease or any renewal or extension thereof, provided Tenant has fully performed all of the terms hereof. Tenant shall not require the deposit or any part of it to be used for any rent or charge payable during the term herein.

Section 3A.3. Tenant is hereby notified that the security deposit, or any portion thereof, will be held for unpaid rent, unpaid utilities, damage due to breach of lease, damage to the premises by Tenant, its agents, employees, invitees, guests or contractors, in excess of ordinary wear and tear."

Seconded. CARRIED on voice vote.

Alderman Snowden moved to amend O-100-94 as follows:

**Amendment No. 4:**

Section 9.3 - Repairs and Maintenance.

Complete line five of Section 9.3 to read "January 1, 1995."

There being no voiced objection, amendment No. 4 was withdrawn.

Alderman Turner moved to reconsider Amendment No. 3. Seconded. CARRIED on voice vote.

Alderman Turner moved to amend O-100-94 as follows:

**Amendment No. 3 (Reconsidered):**

"Section 3A.1. \_\_\_\_\_ Tenant shall, concurrently with the execution of this Lease, deposit with Landlord the sum of \$2,500.00 as security for the full and faithful performance by Tenant of all of its obligations under the terms of this Lease.

Section 3A.2. \_\_\_\_\_ The deposit shall be returned to Tenant within 45 days after the expiration of this Lease or any renewal or extension thereof, provided Tenant has fully performed all of the terms hereof. Tenant shall not require the deposit or any part of it to be used for any rent or charge payable during the term herein.

Section 3A.3. \_\_\_\_\_ Tenant is hereby notified that the security deposit, or any portion thereof, will be held for unpaid rent, unpaid utilities, damage due to breach of lease, damage to the premises by Tenant, its agents, employees, invitees, guests or contractors, in excess of ordinary wear and tear."

Seconded. CARRIED on voice vote.

Alderman Snowden moved to amend O-100-94 as follows:

**Amendment No. 5:**

Article X - Compliance with Law, Insurance Requirements and Title Restrictions.

Add the following:

"Section 10.4. Notwithstanding any provision in this Lease to the contrary (and to the extent that there is any provision in this Lease to the contrary the provisions of this paragraph shall control) neither the Tenant, its agents, employees, invitees, guests or contractors shall commit any unlawful act upon the Demised Premises. Tenant agrees that breach of this Section shall constitute immediate grounds for termination of this Lease, at Landlord's sole discretion, as follows: Landlord may give the Tenant notice of Landlord's intention to terminate this Lease, specifying the date not earlier than five days thereafter and upon the giving of said notice, this Lease and all rights, title and interest of the Tenant hereunder shall expire as fully and completely on the date specified as if that day were the date specifically fixed for the expiration of the term of this Lease and Tenant shall remain liable under this Lease as provided in Sections 20.2 - 20.7 of this Lease. The Parties hereby agree that for purposes of this paragraph, an allegation of an unlawful act occurring upon the Demised Premises resulting in an indictment, criminal information, or other charge in a court of competent jurisdiction shall constitute a breach under the terms of this Section. Tenant hereby waives any and all rights of recovery of any kind which it might otherwise have against the Landlord, its agents and employees, for loss or damage to the Tenant or to his business for termination under the provisions of this Section including but not limited to the termination based upon an allegation of illegal activity resulting in charges that result

in Tenant's favor.

Seconded. CARRIED on voice vote.

Alderman Snowden moved to amend O-100-94 as follows:

**Amendment No. 6:**

Section 14.1. - Conditions of Work for Repairs, Alteration, Restoration - Disbursement of Deposit.

Add subparagraph (c) as follows:

"(c) No work shall be undertaken until all permits required by State and local laws (including but not limited to those required by the City Code) shall first have been obtained by the Tenant. All work shall be performed by licensed and bonded contractors pre-approved by Landlord."

Seconded.

Alderman Snowden moved to amend the amendment as follows:

Add subparagraph (c) as follows:

"(c) No work shall be undertaken until all permits required by State and local laws (including but not limited to those required by the City Code) shall first have been obtained by the Tenant. All work shall be performed by licensed and bonded contractors." Seconded. CARRIED on voice vote.

The main motion, as amended, CARRIED on voice vote.

Alderman Snowden moved to amend O-100-94 as follows:

**Amendment No. 7:**

Section 16.1 - Landlord's Right to Enter Premises, Tenant's Financial Statements, and Board of Directors' Meetings.

Amend first four lines of Section 16.1. to read as follows:

"Section 16.1. The Tenant shall permit the Landlord and any authorized representative of the Landlord to enter the Demised Premises, at any time, with or without notice. (i)..."

Seconded. CARRIED on voice vote.

Alderman Snowden moved to amend O-100-94 as follows:

**Amendment No. 8:**

Section 23.1 - Notices. Amend to specify that Tenant's address is as follows:

"Eastport Seafood Company  
c/o Douglas Orr, Vice President  
4300 Main Street  
Grasonville, MD 21638"

Seconded. CARRIED on voice vote.

Alderman Snowden moved to amend O-100-94 as follows:

**Amendment No. 9:**

Section 29.6. - Access to Public: Add the following:

"Tenant shall be responsible to prevent its employees, contractors, business invitees, wholesalers, suppliers, guests, customers, not to interfere with, obstruct or in any way diminish or reduce the public's access to ingress, egress from and regress from City facilities, parks and property adjacent to the Demised Premises, including but not limited to the Herbert Sadler Park."

Seconded.

Alderman Johnson moved to amend the amendment as follows:

Section 29.6. - Access to Public: Add the following:

"Tenant shall be responsible to prevent its employees, contractors, business invitees, wholesalers, suppliers, guests, customers, not to interfere with, obstruct or in any way diminish or reduce the public's access to ingress, egress from and regress from City facilities, parks and property adjacent to the Demised Premises, including but not limited to the Herbert Sadler Park." Seconded. CARRIED on voice vote.

The main motion as amended CARRIED on voice vote.

Alderman Snowden moved to amend O-100-94 as follows:

**Amendment No. 10:**

Section 31.1 - Right of First Refusal.

Amend first line of Section 31.1. to read as follows:

"Section 13.1. If at any time during the term of this Lease..."

Seconded. CARRIED on voice vote.

Alderman Tullier moved to amend O-100-94 as follows:

**Amendment No. 11:**

Section 31.2 - Right of First Refusal.

Complete line 6, to read "(15)-day".

Seconded. CARRIED on voice vote.

Alderman Snowden moved to amend O-100-94 as follows:

**Amendment No. 12:**

Tenant signature. Revise to provide as follows:

**"EASTPORT SEAFOOD COMPANY**

**By:\_\_\_\_\_ (SEAL)**



**Title:**\_\_\_\_\_

**Print Name:**\_\_\_\_\_

**Address:** \_\_\_\_\_

\_\_\_\_\_ "

Seconded. CARRIED on voice vote.

Alderman Snowden moved to amend O-100-94 as follows:

**Amendment No. 13:**

Section 1.1: Delete reference to Schedule A and substitute in lieu thereof:

"723 Second street a.k.a. the former McNasby's Oyster Company comprising 8,500 square feet, more or less, situated on a 9,350 square foot (more or less) parcel."

Seconded. CARRIED on voice vote.

Alderman Snowden moved to amend O-100-94 as follows:

**Amendment No. 14:**

Article XXXI Reservation of Right - Add Section 32.1 as follows:

The landlord reserves unto itself, its grantees and assigns, the right to use and enjoyment of the piers and decks which are a part of or appertaining to the leased premises. Provided, however, that the use of the piers and decks by the landlord shall at no time interfere with the Tenants use of those structures for the purpose of receiving deliveries of crabs, oysters, fish, and any other seafood product by boat at the McNasby's pier and decks.

Seconded. CARRIED on voice vote.

Alderman Snowden moved to amend O-100-94 by adding the following:

**Amendment No. 15:**

RIDER TO LEASE

THIS RIDER TO LEASE ("Rider") is made and entered into this\_\_\_\_\_ day of \_\_\_\_\_, 1994, by and between the City of Annapolis, Maryland, a Municipal Corporation ("Landlord") and The Eastport Seafood Company, a New York Corporation ("Tenant").

This Rider is part of that certain Lease (the "Lease") of even date herewith between Landlord and Tenant. Notwithstanding anything to the contrary contained in the Lease the Landlord and Tenant agree as follows:

1. The Tenant is hereby granted the exclusive right to possess during the term of and any renewal period of the lease the Demised Premises.
2. In addition to the purposes that Tenant may use the Demised Premises as set forth in the Lease, the Tenant may be permitted to use the Demised Premises for any maritime related function.
3. The Tenant shall accept the Demised Premises in "as is" condition, provided, however, that the Landlord warrants that at the time of commencement of the Lease the Demised Premises conforms to all building and fire codes in effect in the City of Annapolis.

4. At any time throughout the Lease that Tenant is required to obtain Landlord's permission or consent such permission or consent shall not be unreasonably withheld and it shall be deemed granted if Landlord fails to respond in writing to the tenant within four weeks from the date of receipt of tenants written request.
  5. The Tenant's public liability insurance shall have the following limitations One Million Dollars (\$1,000,000) in respect to injury or death to a single person, One Million Dollars (\$1,000,000) in respect to any one occurrence and Five Hundred Thousand Dollars (\$500,000) in respect to the property damage.
  6. The Tenant accepts the Demised Premises in "as is" condition and will surrender the Demised Premises to the Landlord, in substantially the same condition as received, except for reasonable wear and tear, excluding all of Tenant's trade fixtures and equipment. The Tenant shall not cause nor suffer any waste, damage or injury to the Demised Premises.
  7. In the event of damage or destruction of the Demised Premises due to flood, fire or other casualty, to the extent not paid by insurance, rent shall abate for the period of time that the Demised Premises is not tenantable or usable in the ordinary course of business by Tenant.
  8. Article XIV, Section 14.1(a) is amended hereby so that any repairs, alterations, changes, restoration or rebuilding of the Demised Premises shall be performed in a good and workmanlike fashion pursuant to the requirements of applicable building codes and pursuant to a validly issued building permit.
  9. Tenant may sublet a portion of the Demised Premises at its option and sole discretion, however, in the event of such subletting it shall provide Landlord with a copy (or copies) of any sublease and all subrental income shall be divided equally between Landlord and Tenant.
  10. Attached hereto and incorporated herein by reference as Exhibit R-1 is a list of deficient fixtures and deficient conditions of the Demised Premises that Landlord and Tenant hereby acknowledge exist at the time of the execution of this lease.
  11. In the event that Tenant defaults under the Lease and Landlord relets the Demised Premises, Tenant shall not be liable to Landlord for any rent due after Landlord relets the Demised Premises provided Landlord relets the Demised Premises at a rent equal to or greater than the Annual Rent.
  12. The Tenant does not waive the right to trial by jury.
  13. Any reference to the term "co-op" or "cooperative" contained in the Lease is hereby deleted.
  14. Except as amended by this Rider the Lease shall remain in full force and effect.
- IN WITNESS WHEREOF, the Landlord and Tenant have executed this Rider on the date first above written.

WITNESS/ATTEST

\_\_\_\_\_

Landlord, The City of Annapolis, Maryland

SEAL

\_\_\_\_\_

The Eastport Seafood Company

By: \_\_\_\_\_

SEAL

Douglas Orr, Vice President

Seconded. CARRIED on voice vote.

Alderman Snowden moved to adopt O-100-94 as amended on first reading. Seconded. CARRIED on voice vote.

Alderman Snowden moved to suspend the rules to dispense with the second reading on O-100-94 Amended. Seconded. CARRIED on voice vote.

Alderman Snowden moved to adopt O-100-94 Amended on third reading. Seconded. A ROLL CALL vote was taken:

YEAS: Mayor Hopkins, Aldermen Hammond, Johnson, Gilmer, Tullier, Snowden, Turner, Moyer

CARRIED: 8-0

15. **O-101-94** Sponsored by Alderman Johnson

For the purpose of defining the term "trailer"; creating a permit for boat trailers owned by city residents to park at launching facilities; increasing the fine imposed for illegally parking a trailer; and all matters relating to said trailers.

Alderman Snowden moved to adopt O-101-94 on first reading. Seconded. CARRIED on voice vote.

Referred to the Finance and Rules Committees.

16. **O-102-94** Sponsored by Mayor Hopkins

For the purpose of authorizing the execution of certain leases for stalls at the Markethouse located at the City Dock; and all matters relating to said authorization.

Alderman Johnson moved to adopt O-102-94 on first reading. Seconded.

Alderman Snowden moved to suspend the rules to permit O-102-94 to be amended on first reading. Seconded. CARRIED on voice vote.

Alderman Snowden moved to amend O-102-94 as follows:

**Amendment No. 1:**

Paragraph 2 - "Term". Revise Paragraph 2 to provide an initial term of ten years with one additional consecutive term of five years. All other provisions of Paragraph 2 to remain unchanged.

Seconded.

Alderman Snowden moved to amend the amendment as follows:

Paragraph 2 - "Term". Revise Paragraph 2 to provide an initial term of five years with one additional consecutive term of five years. All other provisions of Paragraph 2 to remain unchanged.

Seconded. CARRIED on voice vote.

The main motion as amended CARRIED on voice vote.

Alderman Snowden moved to amend O-102-94 as follows:

**Amendment No. 2:**

Paragraph 5(d)(III) - "Rent". Delete reference in Paragraph 5(d)(III) to and all charges for "soda tax".

Seconded. CARRIED on voice vote.

Alderman Snowden moved to amend O-102-94 as follows:

**Amendment No. 3:**

Paragraph 10(b) - "Nonmonetary Default". Amend Paragraph 10(b) to provide that notwithstanding any other provision of the Lease, if the tenant shall receive three written notices of violations of any Markethouse rule or regulations then, whether or not said violations have been cured, the City in its sole discretion may refer those violations to the City Council which may, by a majority vote, terminate the lease under such terms as the City Council deems appropriate.

Seconded. CARRIED on voice vote.

Alderman Snowden moved to amend O-102-94 as follows:

**Amendment No. 4:**

Paragraph 11 - "Tenant's Use of Space". Delete final sentence in Paragraph 11 providing that tenant shall not schedule or accept deliveries of merchandise after 10:00 a.m. and substitute in lieu thereof:

"Tenant shall use its best efforts to coordinate the scheduling and acceptance of deliveries of merchandise so as not to interfere with traffic and/or parking in the Markethouse area."

Seconded.

Alderman Tullier moved to amend the amendment as follows:

Paragraph 11 - "Tenant's Use of Space". Delete final sentence in Paragraph 11 providing that tenant shall not schedule or accept deliveries of merchandise after 10:00 a.m. and substitute in lieu thereof:

"Tenant shall use its best efforts to coordinate the scheduling and acceptance of deliveries of merchandise by 12:00 noon so as not to interfere with traffic and/or parking in the Markethouse area."

Seconded. CARRIED on voice vote.

The main motion as amended CARRIED on voice vote.

Alderman Tullier moved to amend O-102-94 as follows:

**Amendment No. 5:**

Paragraph 12 - "Assignment, Sublease and Mortgage". Retain prohibition against subletting, hypothecation or mortgaging but revise Paragraph 12 language relating to assignment to provide as follows:

"Tenant will not assign this lease or any part thereof without the prior written consent of the City which consent shall not unreasonably be withheld."

Seconded. CARRIED on voice vote.

Alderman Turner moved to amend O-102-94 as follows:

**Amendment No. 6:**

Paragraph 22 - "Resolution of Certain Disputes". Revise Paragraph 22 to provide that if a tenant is dissatisfied with a decision of the Central Services Officer pursuant to this Paragraph, the tenant may file an appeal with the City of Annapolis Board of Appeals. The decision of the Board of Appeals will be final and not subject to appeal to any administrative body or court.

Seconded.

Alderman Snowden moved to amend the amendment as follows:

Paragraph 22 - (vii) delete other disputes, claims , causes of actions and suits as may be designated by the provisions of the City Code from time to time, shall be submitted by Tenant to the C.S.O. for resolution.

Seconded. CARRIED on voice vote.

The main motion as amended CARRIED on voice vote.

Alderman Tullier moved to reconsider Amendment No. 5 by adding that should the Tenant sell the lease, the City would receive ten percent of the sale price.

Seconded. A ROLL CALL vote was taken:

YEAS: Alderman Gilmer  
NAYS: Mayor Hopkins, Aldermen Hammond, Johnson, Tullier, Turner, Moyer  
ABSTAIN: Alderman Snowden  
DEFEATED: 6-1-1

Alderman Snowden moved to amend O-102-94 as follows:

**Amendment No. 7:**

Paragraph 22 (iv) - "Resolution of Certain Disputes". Amend Paragraph 22 (iv) to insert before the word "displays" the following: "obstructive or unreasonable".

Seconded. CARRIED on voice vote.

Alderman Snowden moved to amend O-102-94 as follows:

**Amendment No. 8:**

Paragraph 23 - "Refuse Removal". Delete Paragraph 23 and substitute in lieu thereof:

"The City shall provide refuse removal services to the Markethouse building, the tenant and common areas, charging tenant equally for same under Paragraph 5.b above."

Alderman Gilmer moved to amend the amendment as follows:

Tenant shall, by itself or in combination with other Markethouse tenants, contract for refuse removal services with a private company to remove Tenant's refuse. The parties hereby agree that the City shall have no obligation to provide refuse removal services to Tenant.

Seconded. A ROLL CALL vote was taken:

YEAS: Aldermen Johnson, Gilmer, Snowden, Turner

NAYS: Mayor Hopkins, Aldermen Hammond, Tullier, Moyer  
DEFEATED: 4-4

A ROLL CALL vote on the main motion was taken:

YEAS: Mayor Hopkins, Aldermen Hammond, Tullier, Moyer  
NAYS: Aldermen Johnson, Gilmer, Snowden, Turner  
DEFEATED: 4-4

Alderman Snowden moved to amend O-102-94 as follows:

**Amendment No. 9:**

Paragraph 26 - "Miscellaneous". Amend Paragraph 26 to provide that where under the terms of this lease, the tenant is required to submit a request for proposal of any form to the City, the City shall initiate response to that request within two weeks of its receipt provided the tenant's request is in writing.

Seconded. CARRIED on voice vote.

Alderman Hammond move to reconsider Amendment No. 8 as follows:

Tenant shall, in combination with other Markethouse tenants, contract for refuse removal services with a private company to remove Tenant's refuse. The parties hereby agree that the City shall have no obligation to provide refuse removal services to Tenant.

Seconded. CARRIED on voice vote.

Alderman Snowden moved to suspend the rules to dispense with the second reading on O-102-94 Amended. Seconded. CARRIED on voice vote.

Alderman Snowden moved to adopt O-102-94 as amended on third reading. Seconded. A ROLL CALL vote was taken:

YEAS: Mayor Hopkins, Aldermen Hammond, Johnson, Gilmer, Tullier, Snowden,  
Turner, Moyer  
CARRIED: 8-0

**BUSINESS AND MISCELLANEOUS**

1. **R-40-94** Sponsored by Alderman Moyer

For the purpose of requesting that the spraying of malathion within the City be banned; and all matters relating to said request.

Alderman Snowden moved to adopt R-40-94. Seconded. CARRIED on voice vote.

2. **R-69-94** Sponsored by Mayor Hopkins

For the purpose of waiving certain fees for parking in certain parking facilities owned by the City for a certain time period; and all matters relating to said fees.

Alderman Snowden moved to adopt R-69-94. Seconded. CARRIED on voice vote.

3. **R-70-94** Sponsored by Mayor Hopkins

For the purpose of suspending the parking meter fees in the downtown area for the holiday season beginning December 19, 1994 through and including December 25, 1994; and all matters relating to said parking meter fees.

Alderman Snowden moved to adopt R-70-94. Seconded. CARRIED on voice vote.

4. **R-71-94** Sponsored by Aldermen Hammond, Tullier, Turner, DeGraff  
**Revised**

For the purpose of reducing the parking meter rates for all meters in the City of Annapolis to the pre-July 1, 1994 rates for a certain period of time; and all matters relating to said rates.

Alderman Snowden moved to adopt R-71-94. Seconded.

Alderman Snowden moved to amend R-71-94 as follows:

**Amendment No. 1**

On Page 2, line 10, strike "March 31" and substitute "February 28"; on that same page, line 17, strike "March" and substitute "February".

Seconded. CARRIED on voice vote.

Alderman Gilmer moved to amend R-71-94 as follows:

**Amendment No. 2**

On Page 2, line 10, strike "the date of passage of this Resolution" and substitute "December 26, 1994."

Seconded. CARRIED on voice vote.

The main motion, as amended, CARRIED on voice vote.

5. Alderman Snowden moved to approve the Record Plat - Annapolis Walk, Bywater Road, Belle Drive & Greenbriar Lane. Seconded. CARRIED on voice vote.

6. Alderman Snowden moved to approve the Record Plat: Crescenzi Builders, 902 Bay Ridge Avenue. Seconded. CARRIED on voice vote.

7. Alderman Snowden moved to adopt the Civil Service Board Minutes of 11/10/94. Seconded. CARRIED on voice vote.

8. Alderman Snowden moved to adopt the Finance Committee minutes of 12/8/94. Seconded. CARRIED on voice vote.

9. Alderman Snowden moved to pay the monthly bills. Seconded. CARRIED on voice vote.

10. Alderman Turner moved to confirm the Mayor's appointment of Mary T. Pontius on the Housing Authority as set forth in Memoranda from Mayor Alfred A. Hopkins dated December 5, 1994.

Seconded. CARRIED on voice vote.

Upon motion duly made, seconded and adopted the meeting adjourned at 10:40 p.m.

**Deborah Heinbuch, CMC**  
**Deputy City Clerk**